



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/149254

PRELIMINARY RECITALS

Pursuant to a petition filed May 06, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on June 20, 2013, at West Bend, Wisconsin.

The issue for determination is whether the agency correctly determined petitioner's medical expense deduction for her FS effective March 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Ken Benedum

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County and a recipient of FS.
2. On March 7, 2013 the agency issued a notice of decision to petitioner stating that effective March 1, 2013 her FS would decrease.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. § 273.9(b). From the gross household income, the following permissible deductions as discussed in the *FoodShare Handbook*, §4.6.1 are allowed: a standard deduction, an earned income deduction, a medical expenses deduction, a child support payment deduction, a dependent care expense deduction, and a shelter expense deduction. Some FS groups are not allowed a deduction for some expenses and some expenses are not always deducted in full. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

The issue in this case is the medical deduction. There was no dispute that petitioner gets a medical deduction; the question is how the agency calculated it. Petitioner requires twice daily Boost nutritional drinks as prescribed by her physician. The agency is directed to budget those medical expenses as follows:

Medical expenses for elderly, blind, or disabled members may be entered through one of the following budgeting methods:

- Budgeted as a recurring monthly expense,
- Budgeted as a one time lump sum expense for one month,
- Budgeted for the remainder of a FS certification period,
- Budgeted based on the terms of a payment plan, or
- Averaged over the time period a one-time medical expense was intended to cover (such as a prepaid or met medical deductible).

FoodShare Handbook, §4.6.4.3. The agency was provided a receipt from petitioner showing that the cost of a 12-pack of Boost cost \$15.97. The agency calculated the monthly cost by averaging that cost of \$15.97 for a case. The monthly cost was determined to be \$80.90. Petitioner did not contest that calculation, but rather testified that she had provided additional receipts to the agency to show that she cannot always get a case of Boost at that cost. She testified to the fact that sometimes she has to buy the Boost by the 6-pack at the cost of \$9.99. The agency agreed to review those receipts post-hearing and submit them to this administrative law judge, which occurred. It is true that one cannot determine if the Boost was purchased by the case or by a 6-pack from those receipts. However, in accordance with petitioner's testimony that she did purchase 6-packs at that cost, the agency also calculated the average of the cost of the 6-packs. It determined that the monthly cost was \$101.28, and that averaging that amount with the costs of the case, the monthly amount would be \$91.09. I find this to be reasonable and consistent with the policy. Accordingly, I will remand the matter so that the agency can redetermine her FS effective March 1 and ongoing using the \$91.09 medical deduction expense for the Boost.

CONCLUSIONS OF LAW

The agency incorrectly determined petitioner's medical expense deduction (for Boost) for her FS effective March 1, 2013.

THEREFORE, it is

ORDERED

The matter is remanded to the agency to redetermine petitioner's FS effective March 1, 2013 and ongoing using the \$91.09 medical deduction expense for the Boost, issue any FS accordingly to the extent not already issued, and to issue a notice of decision regarding same to the petitioner. These actions shall be taken within 10 days of the date of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

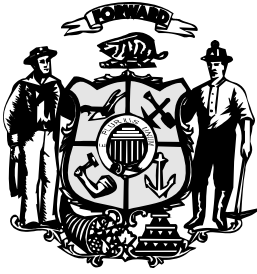
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 24th day of June, 2013

\sKelly Cochran
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 24, 2013.

Washington County Department of Social Services
Division of Health Care Access and Accountability